

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: March 9, 2023

Time: 11:00 a.m.

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In re:

OTTO LUIS CASAL

Chapter 13

Case No.: 23-70279-736

Debtor(s)
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NOTICE OF MOTION

SIRS / MADAMS

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Robert E. Grossman, United States Bankruptcy Judge on the 9th day of MARCH, 2023 at 11:00 a.m., at the United States Bankruptcy Court located at the Alfonse M. D'Amato U.S. Courthouse, 290 Federal Plaza – Courtroom 860, Central Islip, New York 11722, for an Order pursuant to 11 U.S.C. §§§§ 109(g), 521, & 1307(c), dismissing this case with prejudice, and barring the Debtor(s) from filing another petition under Chapter 13 or converting a Chapter 7 to Chapter 13 for a period of one hundred eighty (180) days, and directing the Clerk's Office not to accept any filing on behalf of this Debtor(s), prior to the expiration of the bar period, without first obtaining the Court's permission to file such Chapter 13 petition, and the Court to retain jurisdiction to determine any motion to lift the stay seeking *in rem* relief after dismissal, by reason of the repetitive filings by this Debtor(s), and for such other and further relief as this Court deems just and proper.

PLEASE TAKE NOTICE, that the hearing shall not be held in person but shall be held telephonically or by video. Those intending to appear at the hearing must register with eCourt Appearances no later than two (2) days prior to the hearing. The phone number or video link for the hearing will be emailed to those that register with eCourt Appearances in advance of the hearing. Instructions for registering with eCourt Appearances can be found at <https://www.nyeb.uscourts.gov/node/2126>. If you do not have internet access or are otherwise unable to register with eCourt Appearances, you may call or email Judge Grossman's courtroom deputy for instructions at (631) 712-6200, reg_hearings@nyeb.uscourts.gov.

PLEASE TAKE NOTICE, that the hearing on the Motion may be adjourned without notice other than announcement in open Court.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be filed with the Court and served upon the undersigned no later than three (3) days prior to the return date of this motion.

Dated: Islandia, New York
February 13, 2023

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, New York 11749
(631) 549-7900

To: *Office of the United States Trustee*
OTTO LUIS CASAL, Pro-Se Debtor(s)
All Interested Parties and Creditors

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

OTTO LUIS CASAL

Chapter 13

Case No.: 23-70279-736

Debtor(s)

APPLICATION

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TO THE HONORABLE ROBERT E. GROSSMAN, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee in the above captioned estate, respectfully represents as follows:

1. The debtor(s) filed a Chapter 13 petition under the provisions of 11 U.S.C., on, January 25, 2023 and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. Upon information and belief, this is the eighth petition for relief filed by the debtor(s), under Chapter 7 & 13, dating back to August 30, 2009.
3. The first petition was filed by the debtor(s) under case number 8-09-76457-dte, on August 30, 2009. The debtors Chapter 7 case received a standard discharge, on November 24, 2009. The second petition was filed pro se by the debtor(s) under case number 8-18-70726-736, on February 2, 2018. The debtors Chapter 13 case was automatically dismissed by the court, for failure to file documents, on March 20, 2018. The third petition was filed pro se by the debtor(s) under case number 8-19-71879-736, on March 15, 2019. The debtors Chapter 13 case was automatically dismissed by the court, for failure to file documents, on April 30, 2019. The fourth petition was filed by the debtor(s) under case number 1-19-44128-nhl, on July 5, 2019. The debtors Chapter 7 case was Intra-District Transferred, on July 8, 2019. The fifth petition was filed by the debtor(s) under case number 8-19-74847-736, on July 5, 2019. The debtors Chapter 7 case received a standard discharge, on November 13, 2019. The sixth petition was filed pro se by the debtor(s) under case number 8-20-71590-736, on March 12, 2020. The debtors Chapter 13 case was dismissed with prejudice upon application of the Trustee, for prior filings, on April 30, 2020. The seventh petition was filed pro se by the debtor(s) under case number 8-22-72887-736, on October 19, 2022. The debtors Chapter 13 case was dismissed by the court, for failure to pay the filing fee, on November 8, 2022.
4. This appears to be nothing more than another filing for the sole purpose of obtaining the rights and benefits of the Automatic Stay, as provided in 11 U.S.C. §362.
5. This is a material default and is prejudicial to the rights of the creditors of the debtor(s).

WHEREFORE, the Trustee requests an Order pursuant to the provisions of 11 U.S.C. §§ 109(g), 521, & 1307(c), dismissing this case with prejudice, and barring the debtor(s) from filing another petition under Chapter 13 or converting a Chapter 7 to Chapter 13 for a period of period of one hundred eighty (180) days, and directing the Clerk's Office not to accept any filing on behalf of this Debtor(s), prior to the expiration of the bar period, without first obtaining the Court's permission to file such Chapter 13 petition, and the Court to retain jurisdiction to determine any motion to lift the stay seeking *in rem* relief after dismissal, by reason of the repetitive filings by this Debtor(s), and for such other and further relief as this Court deems just and proper.

Dated: Islandia, New York
February 13, 2023

/s/ **Michael J. Macco**

Michael J. Macco, Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, New York 11749
(631) 549-7900

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

STEPHANIE TURNER, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age, and resides in Suffolk County, New York.

On February 13, 2023 deponent served the within:

NOTICE OF MOTION AND APPLICATION

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

Otto Luis Casal
645 Wyngate Drive West
Valley Stream, NY 11580
Pro Se Debtor(s)

and upon the following parties, by the e-mail address designated by said parties for that purpose;

Office of the United States Trustee
Alfonse M. D'Amato U.S. Courthouse
USTPRegion02.LI.ECF@usdoj.gov

SN Servicing Corporation
Friedman Vartolo, LLP
bankruptcy@FriedmanVartolo.com

Wells Fargo Bank, N.A.
Woods Oviatt Gilman LLP
Aleksandra K. Fugate
afugate@woodsdefaultservices.com

/s/Stephanie Turner
STEPHANIE TURNER

Sworn to before me this
13th day of FEBRUARY, 2023

/s/ Janine M. Zarrilli
NOTARY PUBLIC
Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires October 14, 2025